

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

**HASTINGS VILLAGE INVESTMENT,)
a California limited partnership,)
individually and on behalf of all others)
similarly situated,)**

Plaintiff,)

vs.)

**COMMERCIAL DEFEASANCE, LLC a)
North Carolina limited liability company,)
and DEFEASANCE HOLDING)
COMPANY, LLC, a North Carolina)
limited liability company,)**

Defendants.)

CASE NO. 3:08-cv-549-RJC-DCK

**AVALON CENTER INVESTMENT)
COMPANY, a California limited)
partnership, individually and on behalf)
of all others similarly situated,)**

Plaintiff,)

vs.)

**COMMERCIAL DEFEASANCE, LLC a)
North Carolina limited liability company,)
and DEFEASANCE HOLDING)
COMPANY, LLC, a North Carolina)
limited liability company,)**

Defendants.)

CASE NO. 3:08-cv-535-FDW-DCK

THIS MATTER is before the Court *sua sponte*. Federal Rule of Civil Procedure 42(a) grants the Court authority to consolidate “actions involving a common question of law or fact.” Fed. R. Civ. P. 42(a). The decision to consolidate is committed to the Court’s discretion and

consolidation may be initiated *sua sponte*. See Arnold v. E. Air Lines, Inc., 681 F.2d 186, 193 (4th Cir. 1982). The claims alleged by Plaintiffs in these cases arise from a common set of facts – Defendants’ wrongful taking of compensation from its clients. The legal issues presented overlap, the Defendants are identical, and there is a little likelihood of prejudice to any party if the cases are consolidated. Judge Whitney concurs in the consolidation and assignment of these two cases.

IT IS, THEREFORE, ORDERED that Plaintiffs’ civil actions (3:08-cv-549 and 3:08-cv-535) will be consolidated pursuant to Rule 42(a). The Clerk is directed to consolidate civil action number 3:08-cv-549-RJC into the earlier filed related civil action 3:08-cv-535-FDW.

Signed: January 21, 2009

A handwritten signature in black ink, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
Chief United States District Judge

